

JURISDICTION AND VENUE

3. The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1338 and 1367 as this action arises under the Lanham Trademark Act, 15 U.S.C. § 1051 *et seq.* and the state law of trademark infringement and unfair competition.

4. Venue is properly laid in this jurisdiction pursuant to 28 U.S.C. §§ 1391(b) and/or 1391(c) in that all parties regularly conduct business in this District and/or are subject to jurisdiction in this District and because the offending acts alleged occurred in this District.

BACKGROUND

5. ALL THREES is a taxicab and limousine dispatch company.

6. In the taxicab and limousines industry, one of the primary means of generating revenue is through call-in requests for service.

7. ALL THREES' oldest, continuously used phone number is 215-333-3333.

8. ALL THREES markets its phone number to consumers who use taxicab and limousine transportation services, receives call-in requests for service and then dispatches requests to taxicabs and limousines that pay ALL THREES a monthly license fee (“**Licensees**”) in exchange for both the provision of ride requests and a license to use ALL THREES' colors and markings, including, most critically, its phone number.

9. Since approximately 1992, ALL THREES and its predecessors in interest have used the phone number 215-333-3333.

10. ALL THREES initially utilized this phone number because it was easy to remember, and taxicab and limousine services companies are largely dependent upon consumers' ability to easily contact providers to request transportation, often due to an immediate need for service.

11. To facilitate consumers' ability to easily remember this phone number, also since approximately 1992, ALL THREES has marketed its service to customers by simply telling the riding public to "dial all threes."

12. ALL THREES has used similar advertisements in marketing materials, and Licensees have either prominently displayed the phone number or a logo referencing the "all threes" phone number on their vehicles to confirm their association with ALL THREES.

13. ALL THREES has invested considerable time and money in marketing that slogan, and in making the "all threes" phone number synonymous with taxicabs and limousines that use its dispatch services.

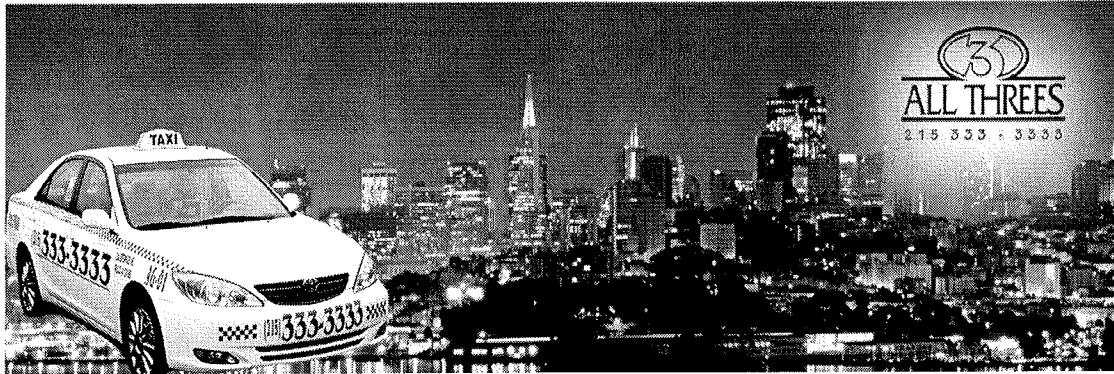
14. Over time, the "dial all threes" slogan became so synonymous with those taxicabs and limousines using ALL THREES' dispatch services that consumers began to refer to Yellow Cab and its Licensees as ALL THREES.

15. Recognizing the good will and value that ALL THREES' efforts and resources had created in the "all threes" name and corresponding phone number, in 2007, Yellow Cab formally registered "ALL THREES" as a fictitious name.

16. Since that time, Yellow Cab has utilized, at considerable expense, the ALL THREES name and brand in marketing materials and on its website, www.allthrees.com. Indeed, if you google "Yellow Cab Philadelphia" or "all threes," the first result displayed is this website.

17. While taxicabs that have licensed the "ALL THREES" markings have primarily utilized the phone number itself for promotional and marketing purposes, limousines and luxury sedans that have licensed the ALL THREES colors and markings have since approximately 2007 utilized the ALL THREES logo on the backs of vehicles.

18. The following graphics are examples of ALL THREES' and its Licensees' uses of the ALL THREES marks:



19. In short, because of ALL THREES' considerable effort and investment over the past 25 years, the riding public in Philadelphia and the surrounding counties have come to associate the "all threes" phone number with ALL THREES and its Licensees. Indeed, the value of the license is wholly dependent upon that association.

20. As part of the process of utilizing the "all threes" concept as the central component of its marketing efforts, ALL THREES has over time acquired numerous other iterations of the phone number, including 484-333-3333 and 610-333-3333. All of these numbers direct callers to ALL THREES' dispatchers, which then relay the requests to Licensees.

21. Recognizing the value associated with an "all threes" phone number in the local transportation industry, in or around May 2014, FCLS began utilizing the phone number 267-333-3333 to provide transportation services in Philadelphia and the surrounding counties.

22. FCLS's vehicles prominently display that phone number, as does the company's website.

23. FCLS's use of the phone number 267-333-3333 is intended to create confusion among customers and to imply an association between FCLS and ALL THREES and its Licensees.

24. FCLS call-takers who have been asked whether a caller has reached ALL THREES have answered that question affirmatively and/or failed to correct callers' understandings that they had reached ALL THREES or a company associated with ALL THREES.

25. FCLS has recently been only intermittently answering its phones, a practice which further harms the goodwill cultivated by ALL THREES because customers who call to request transportation are led to believe that ALL THREES is either out of business or is unreliable, either of which belief is likely the biggest detriment to any company in the business or providing on-demand taxicab and limousine transportation to individuals who likely have an immediate need for service.

COUNT I

FEDERAL TRADEMARK INFRINGEMENT UNDER 15 U.S.C.A. § 1125(A)

26. ALL THREES incorporates the foregoing allegations as if fully stated herein.

27. The ALL THREES marks, including its phone numbers and logos referencing them, are valid and protectable marks.

28. FCLS's continued use of the phone number 267-333-3333 in connection with its sale of transportation services constitutes an intentionally false or misleading representation that FCLS is associated with, or is the same company as, ALL THREES.

29. FCLS's conduct also misrepresents in commercial advertising the nature and origin of its services by intending to imply, and actually implying, an association between FCLS and ALL THREES and its Licensees.

30. FCLS's use of this phone number intends to and in fact does cause confusion and mistake among customers by deceptively suggesting an affiliation, connection or association between FCLS and ALL THREES and its Licensees.

31. Through extensive efforts by ALL THREES, its phone numbers and associated ALL THREES logo have come to have significance in the mind of the relevant trade and purchasing public as an indicator of services originating with, sponsored by, or otherwise associated with ALL THREES.

32. FCLS's services are offered and/or rendered to the same or similar class of consumers and/or purchasing public as are ALL THREES' services.

33. FCLS's services are offered or delivered through the same or similar channels of trade as are ALL THREES' services.

34. ALL THREES has not authorized or consented to FCLS's activities as alleged herein.

35. By the acts complained of herein, FCLS has caused and, unless restrained and enjoined by this Court, will continue to cause irreparable harm, damage and injury to ALL THREES in violation of 15 U.S.C. § 1125(a).

36. ALL THREES has no adequate remedy at law.

37. FCLS's conduct has caused and if not enjoined, will continue to cause irreparable damage to the rights of ALL THREES in its business, reputation and goodwill.

COUNT II

STATE COMMON LAW TRADEMARK INFRINGEMENT/UNFAIR COMPETITION

38. ALL THREES incorporates the foregoing allegations as if fully stated herein.

39. FCLS's continued use of the phone number 267-333-3333 in connection with its sale of transportation services constitutes an intentionally false or misleading representation that FCLS is associated with, or is the same company as, ALL THREES.

40. FCLS's conduct also misrepresents in commercial advertising the nature and origin of its services by intending to imply, and actually implying, an association between FCLS and ALL THREES and its Licensees.

41. FCLS's use of this phone number intends to and in fact does cause confusion and mistake among customers by deceptively suggesting an affiliation, connection or association between FCLS and ALL THREES and its Licensees.

42. Through extensive efforts by ALL THREES, its phone numbers and associated ALL THREES logo have come to have significance in the mind of the relevant trade and purchasing public as an indicator of services originating with, sponsored by, or otherwise associated with ALL THREES.

43. FCLS's services are offered and/or rendered to the same or similar class of consumers and/or purchasing public as are ALL THREES' services.

44. FCLS's services are offered or delivered through the same or similar channels of trade as are ALL THREES' services.

45. ALL THREES has not authorized or consented to FCLS's activities as alleged herein.

46. ALL THREES has no adequate remedy at law.

47. FCLS's conduct has caused and if not enjoined, will continue to cause irreparable damage to the rights of ALL THREES in its business, reputation and goodwill.

WHEREFORE, ALL THREES respectfully demands that this Court enter judgment in its favor and against FCLS and enter an Order:

A. Permanently enjoining FCLS, their principals, officers, agents, servants, employees, attorneys, subsidiaries, divisions, successors and assigns and all those in active

concert or participation with them who receive actual notice of the injunction by personal service or otherwise, from any use of phone numbers consisting of an area code and the digits 333-3333 or any logo, tradename or any other similar usage related to such a phone number in connection with the promotion, advertisement, display, sale, offering for sale, manufacture, production, circulation, import, export or distribution of any production, service or event offered by FCLS;

B. Finding that FCLS has infringed ALL THREES' trademark and service mark rights and has damaged ALL THREES' goodwill by the acts complained of herein.


C. Finding that FCLS has unfairly competed with ALL THREES by the acts complained of herein.

D. Awarding ALL THREES monetary relief in an amount fixed by the Court in its discretion as sound and just, including FCLS's revenues or gains of any kind resulting from its acts of willful trademark infringement and unfair competition, said amount to be trebled in light of the willful and deliberate nature of FCLS's conduct.

E. Awarding ALL THREES costs, expenses and reasonable attorney's fees pursuant to 15 U.S.C. § 1117(a).

F. Granting ALL THREES punitive damages.

G. Granting ALL THREES such other relief as the Court deems just and proper.



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